



Implementation of Pay Telephone Reclassification
and Compensation Provisions of
Telecommunications Act of 1996,
CC Docket 96-128, File No. NSD-L-99-34

Presentation to the FCC
August 6, 2003

THE CURRENT RULES, WHICH REQUIRE IXC_s TO GUARANTEE PAYMENTS TO PSP_s, PLACE A BURDEN ON IXC's THAT IS IMPOSSIBLE TO MEET.

- ◆ It is impossible for AT&T to track calls after they have been delivered to the SBRs' platforms; consequently, AT&T cannot independently determine whether a call delivered to the SBRs' platform is "completed."
- ◆ AT&T must rely on SBRs to obtain the data that AT&T is obligated to provide under the *Second Report and Order*.
- ◆ AT&T generally has been unable to collect adequate call completion data from SBRs.
- ◆ As a result, AT&T has been forced to pay PSPs for all the coinless payphone calls that it delivers to SBRs, even though some of the calls were never completed.

THE CURRENT RULES, WHICH REQUIRE THE IXCS TO ASSESS THE ACCURACY OF SBR CALL-COMPLETION DATA PRESENT SEVERAL PROBLEMS

- ◆ Even where AT&T receives call completion information from SBRs – originating ANI, call duration, terminating phone number, and FLEX-ANI digits – such information often does not match AT&T's information.
- ◆ Where the first SBR routes the call to another SBR, AT&T must attempt to obtain the call completion data from the second SBR with which it has no business relationship.
- ◆ Because it has been virtually impossible to collect timely, usable call completion data from these SBRs, AT&T's practice has been to pay PSPs for *all* calls delivered to those SBR platforms.

**ALTHOUGH SBRs ARE THE ENTITIES THAT
DERIVE THE PRINCIPLE ECONOMIC BENEFIT
FROM CALL COMPLETION, IXC_s BEAR THE
UNFAIR FINANCIAL BURDEN OF COMPENSATING
PSP_s FOR CALLS DELIVERED TO SBR_s**

- ◆ The Commission's assumption that IXCs would be able to "work with SBRs to review and reconcile call data records" has proven inaccurate.
- ◆ Without adequate call completion data, AT&T has had to overcompensate PSPs by paying them for each and every call delivered to SBRs, regardless of whether the calls were completed.
- ◆ PSPs have enjoyed the benefits of overcompensation by AT&T for nearly two years.

THE COMMISSION'S CURRENT RULES CANNOT BE RECONCILED WITH THE ACT BECAUSE THE PRINCIPLE ECONOMIC BENEFICIARY OF A PAYPHONE CALL– IN THIS INSTANCE, THE SBR– MUST PAY FOR THAT CALL

- ◆ D.C. Circuit has found that the Commission cannot require one sector of the payphone industry to pay for a call when another sector receives the economic benefit – even for reasons of administrative convenience. *See Illinois Pub. Telecom. Ass'n v. FCC*, 117 F.3d 555, 565 (D.C. Cir. 1997).
- ◆ More recently, that Court held that when PSPs are unable to collect money owed them, PSPs must use administrative remedies, rather than shift the cost of non-payment onto IXC's. *See American Pub. Comm. Council v. FCC*, 215 F.3d 51, 55-56 (D.C. Cir. 2000).
- ◆ The Commission itself has recognized that it would be unlawful to require one carrier to shoulder obligations that properly should be borne by another. *Fifth Order on Reconsideration and Order on Remand*, 17 FCC Rcd 21274, ¶ 82 (2002).

AT&T's PROPOSAL – PRIVATE AGREEMENTS SUPPLEMENTED BY MANDATORY REGULATIONS

- ◆ The Commission should confirm that SBRs and IXC's may mutually agree to treat payphone calls delivered to the SBRs' platforms as "completed calls" for which PSPs are entitled to compensation.
- ◆ Under these private agreements IXC's would act as conduits -- not guarantors -- for the payments on behalf of SBRs.
- ◆ Private agreements avoid administrative tracking costs of determining whether a payphone call delivered by an IXC to an SBR is "completed."
- ◆ Such private agreements ensure adequate compensation to PSPs.

AT&T's PROPOSAL – PRIVATE AGREEMENTS SUPPLEMENTED BY MANDATORY REGULATIONS (cont.)

- ◆ APCC has supported private agreements between SBRs and IXC's whereby the parties agree to treat as "completed" calls delivered to the SBR's platform.

- ◆ APCC as stated that:

“allowing carriers to treat calls completed to resellers as compensable will permit a substantially simplified compensation system, with reduced carrier costs and a more accurate count of compensable calls.” *Comments of the American Public Communications Council on Pets. for Recons./Clarification*, CC Dkt. No. 96-128, at 2 (filed Oct. 9, 2001).

AT&T's PROPOSAL – PRIVATE AGREEMENTS SUPPLEMENTED BY MANDATORY REGULATIONS (cont.)

- ◆ Absent private agreements, IXC's and SBR's should be required to provide PSP's with information necessary for PSP's to collect compensation directly from the SBR's.
- ◆ IXC's would be required to provide the PSP's, on a quarterly basis, special informational reports that would include:
 - number of calls delivered, organized by toll-free number and payphone ANI, and
 - name of the SBR's that do not wish to have IXC's submit compensation to PSP's on behalf of SBR's.

AT&T's PROPOSAL – PRIVATE AGREEMENTS SUPPLEMENTED BY MANDATORY REGULATIONS (cont.)

- ◆ SBRs would be required to provide PSPs with call tracking and call completion information.
- ◆ The proposal would ensure that the PSPs have the names of the SBRs who are responsible for tracking, reporting , and paying compensation on completed calls delivered to the IXC's, as well as the number of calls delivered to them from each payphone.

AT&T PROPOSAL BENEFITS ALL PARTIES -- PSPs, SBRs AND IXC

◆ *Benefits to PSPs*

- Where an SBR chooses to treat all calls delivered by IXC as completed, the PSP unquestionably receives adequate compensation.
- Where an SBR chooses to compensate PSPs directly, PSPs receive essential information from both the IXC and SBR that allows PSPs to ensure that the responsible SBR provides adequate compensation.

◆ *Benefits to SBRs:*

- Permits SBRs to determine whether it is economically more efficient to pay IXCs for 100% of the calls delivered to them (and avoid the cost of tracking the call), or to pay the PSPs directly on completed calls (but incur additional tracking and reporting expenses).

AT&T PROPOSAL BENEFITS ALL PARTIES -- PSPs, SBRs AND IXCs (con't)

◆ *Benefits to IXC's:*

- Where SBR chooses to have the IXC act as a conduit on behalf of SBRs, the Proposal reduces administrative costs.
- Where SBR chooses to compensate PSPs directly, the IXC would not be responsible for the accuracy of call completion information.
- Proposal removes IXC's from any dispute about the actual number of calls delivered to the SBR.